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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/550,397

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Takashi Hosoya

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EXAMINER

SANTOS, ROBERT G

ART UNIT

PAPER NUMBER

3673

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/550,397	<b>Applicant(s)</b> HOSOYA ET AL.	
	<b>Examiner</b> Robert G. Santos	<b>Art Unit</b> 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,11 and 28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-9,11 and 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1 and 11 are objected to because of the following informalities:
  - 1) In claim 1, line 5: The term “leg” should be changed to --legs--.
  - 2) In the last line of claim 11: The term “stretch” should be changed to --stretcher--.Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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3. Claims 1 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. No. 6,976,696 to O'Krangley et al. O'Krangley et al. show the claimed limitations of a stretcher (10) including a bed (18), legs (12, 14) foldably provided on the bed and casters (12a, 14a) provided at the legs, respectively, wherein the legs are configured to raise the bed by deploying from the bed (as described in column 3, lines 63-67; column 4, line 1 and column 7, lines 44-46), the stretcher is configured to be laid on a support platform from the front side of the bed with the legs folded up by pushing the legs against the support platform as the legs deploy (as shown in Figures 5 & 6 and as described in column 5, lines 36-48), and the stretcher further comprising an ascent assist device (16) having: a lifting mechanism (64a, 66a, 66b) for giving the bed an ascending force by giving the legs a force forward deployment; and a switch (104) for turning the lifting mechanism ON/OFF; a deactivation mechanism for turning OFF the lifting mechanism to enable the legs to be folded up, when the length of part of the stretcher laid on the support platform exceeds a predetermined length (as described in column 9, lines 44-51 & 56-62); wherein the legs include front (12) and rear (14) legs foldably provided at the front and rear sides of the bed; and the lifting mechanism comprises an actuator (64a) for applying a deployment force to the front legs, and an actuator (64a) for applying a deployment force to the rear legs independently of the actuator for the front legs (see also Figures 1-4 & 27; column 7, lines 56-60; column 8, lines 48-67; and column 9, lines 1-44).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, 4 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,022,105 to Catoe in view of O'Krangley et al. '696. Catoe shows the claimed limitations of a stretcher including a bed (16), legs (24, 26) foldably provided on the bed and casters (28) provided at the legs, respectively, the stretcher further comprising an ascent assist device having: a lifting mechanism (56) for giving the bed an ascending force; and a switch (58) for turning the lifting mechanism on/off (as shown in Figure 6A and as described in column 3, lines 10 & 16); wherein the legs are configured to raise the bed by deploying from the bed (as shown in Figures 6A & 6C) and wherein the stretcher is configured to be laid on a support platform from the front side of the bed with the legs folded up (as described in column 4, lines 43-51), and the lifting mechanism is configured to give the bed an ascending force by giving the legs a force toward deployment (as described in column 3, lines 3-19); wherein the lifting mechanism has an actuator in the form of a pneumatic cylinder (as described in column 3, lines 3-6) into which high-pressure gas is introduced to give the bed an ascending force, the stretcher further comprises a tank (50) for storing high-pressure gas, a gas pipe line (52) for connecting the tank and the actuator, and the switch is a switch for opening and closing the flow path of the gas pipe line (via elements 54). However, Catoe does not specifically disclose conditions wherein the legs are folded up by pushing the legs against the support platform as the legs deploy and wherein the legs include front and rear legs foldably provided at the front and rear sides of the bed; the use of a deactivation mechanism for turning OFF the lifting mechanism to enable the legs to be folded up, when the length of part of the stretcher laid on the support platform exceeds

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a predetermined length; and the use of a lifting mechanism comprising an actuator for applying a deployment force to the front legs and an actuator for applying a deployment force to the rear legs independently of the actuator for the front legs. O'Krangley et al. provide the basic teaching of a stretcher (10) including a bed (18), legs (12, 14) foldably provided on the bed and casters (12a, 14a) provided at the legs, respectively, wherein the legs are configured to raise the bed by deploying from the bed (as described in column 3, lines 63-67; column 4, line 1 and column 7, lines 44-46), the stretcher is configured to be laid on a support platform from the front side of the bed with the legs folded up by pushing the legs against the support platform as the legs deploy (as shown in Figures 5 & 6 and as described in column 5, lines 36-48), and the stretcher further comprising an ascent assist device (16) having: a lifting mechanism (64a, 66a, 66b) for giving the bed an ascending force by giving the legs a force forward deployment; and a switch (104) for turning the lifting mechanism ON/OFF; a deactivation mechanism for turning OFF the lifting mechanism to enable the legs to be folded up, when the length of part of the stretcher laid on the support platform exceeds a predetermined length (as described in column 9, lines 44-51 & 56-62); wherein the legs include front (12) and rear (14) legs foldably provided at the front and rear sides of the bed; and the lifting mechanism comprises an actuator (64a) for applying a deployment force to the front legs, and an actuator (64a) for applying a deployment force to the rear legs independently of the actuator for the front legs (see also Figures 1-4 & 27; column 7, lines 56-60; column 8, lines 48-67; and column 9, lines 1-44). The skilled artisan would have found it obvious at the time the invention was made to modify the leg configuration and ascent assist device of the bed stretcher of Catoe to include the use of legs that are folded up by pushing the legs against the support platform as the legs deploy and which include front and rear legs

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foldably provided at the front and rear sides of the bed; a deactivation mechanism for turning OFF the lifting mechanism to enable the legs to be folded up, when the length of part of the stretcher laid on the support platform exceeds a predetermined length; and a lifting mechanism comprising an actuator for applying a deployment force to the front legs and an actuator for applying a deployment force to the rear legs independently of the actuator for the front legs in order to provide an alternative conventional configuration for efficiently controlling the pivoting movement of the legs, thereby facilitating transport and storage of the stretcher.

6. Claims 3-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Krangley et al. '696 in view of U.S. Pat. No. 5,365,622 to Schirmer. With respect to claims 3 and 4, O'Krangley et al. disclose the use of a hydraulic ascent assist device (16) as opposed to a lifting mechanism having a pneumatic cylinder into which high-pressure gas is introduced to give the bed an ascending force, a tank for storing high-pressure gas, a gas pipe line for connecting the tank and the actuator, and a switch which is a switch for opening and closing the flow path of the gas pipe line. Schirmer provides the basic teaching of a stretcher (10) comprising an ascent assist device comprising a lifting mechanism having an actuator in the form of a pneumatic cylinder (126, 128), a tank (80, 130) for storing high-pressure gas, a gas pipe line for connecting the tank and the pneumatic cylinder, and a switch (154, 154') which is a switch for opening and closing the flow path of the gas pipe line (see Figures 3, 14, 15 & 22; column 7, lines 1-11; column 8, lines 54-58 & 64-68; column 9, lines 58-68; and column 10, lines 1-14). The skilled artisan would have found it obvious at the time the invention was made to replace the hydraulic ascent assist device of O'Krangley et al. with an ascent assist device having a lifting

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mechanism having a pneumatic cylinder into which high-pressure gas is introduced to give the bed an ascending force, a tank for storing high-pressure gas, a gas pipe line for connecting the tank and the actuator, and a switch which is a switch for opening and closing the flow path of the gas pipe line since such a modification would have been generally recognized as a substitution of art-recognized equivalents.

As concerns claims 5, 6, 8 and 9, O'Krangley et al. also do not specifically disclose the use of a speed controller for controlling the speed of gas exhausted from the vented chamber of the pneumatic cylinder (56), a speed controller for controlling the speed of high-pressure gas flowing from the tank (50) into the pneumatic cylinder, and a speed control means for controlling the speed for the bed when the bed is raised and lowered by the lifting mechanism. Schirmer provides the basic teaching of a stretcher (10) comprising a speed controller (174, 174') for controlling the speed of gas exhausted from the vented chamber of the pneumatic cylinder, a speed controller (172) for controlling the speed of high-pressure gas flowing from the tank into the pneumatic cylinder, and a speed control means for controlling the speed for the bed when the bed is raised and lowered by the lifting mechanism (as shown in Figures 14 & 15 and as further described in column 10, lines 43-48). The skilled artisan would have found it obvious at the time the invention was made to provide the stretcher of O'Krangley et al. with a speed controller for controlling the speed of gas exhausted from the vented chamber of the pneumatic cylinder, a speed controller for controlling the speed of high-pressure gas flowing from the tank into the pneumatic cylinder, and a speed control means for controlling the speed for the bed when the bed is raised and lowered by the lifting mechanism in order to facilitate and ensure the smooth



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operation of the stretcher as the bed portion is vertically adjusted, thereby providing enhanced comfort and support to a patient positioned thereon.

With respect to claims 7 and 11, Schirmer also provides the basic teaching of a gas source placed in an ambulance vehicle for introducing the high-pressure gas into the tank (see column 7, lines 8-11). The skilled artisan would have found it obvious at the time the invention was made to provide the stretcher of O'Krangley et al. with a gas source placed in an ambulance for introducing the high-pressure gas into the tank in order to ensure further proper operation of the ascent assist device.

7. Claims 5-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Catoe '105 in view of O'Krangley et al. '696 and further in view of Schirmer '622. As concerns claims 5, 6, 8 and 9, Catoe as modified by O'Krangley et al. does not specifically disclose the use of a speed controller for controlling the speed of gas exhausted from the vented chamber of the pneumatic cylinder (56), a speed controller for controlling the speed of high-pressure gas flowing from the tank (50) into the pneumatic cylinder, and a speed control means for controlling the speed for the bed when the bed is raised and lowered by the lifting mechanism. Schirmer provides the basic teaching of a stretcher (10) comprising an ascent assist device comprising a lifting mechanism having an actuator in the form of a pneumatic cylinder (126, 128), a tank (80, 130) for storing high-pressure gas, a gas pipe line for connecting the tank and the pneumatic cylinder, a speed controller (174, 174') for controlling the speed of gas exhausted from the vented chamber of the pneumatic cylinder, a speed controller (172) for controlling the speed of high-pressure gas flowing from the tank into the pneumatic cylinder, and a speed control means

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for controlling the speed for the bed when the bed is raised and lowered by the lifting mechanism (as shown in Figures 14 & 15 and as further described in column 10, lines 43-48). The skilled artisan would have found it obvious at the time the invention was made to provide the stretcher of Catoe as modified by O'Krangley et al. with a speed controller for controlling the speed of gas exhausted from the vented chamber of the pneumatic cylinder, a speed controller for controlling the speed of high-pressure gas flowing from the tank into the pneumatic cylinder, and a speed control means for controlling the speed for the bed when the bed is raised and lowered by the lifting mechanism in order to facilitate and ensure the smooth operation of the stretcher as the bed portion is vertically adjusted, thereby providing enhanced comfort and support to a patient positioned thereon.

With respect to claims 7 and 11, Schirmer also provides the basic teaching of a gas source placed in an ambulance vehicle for introducing the high-pressure gas into the tank (see column 7, lines 8-11). The skilled artisan would have found it obvious at the time the invention was made to provide the stretcher of Catoe as modified by O'Krangley et al. with a gas source placed in an ambulance for introducing the high-pressure gas into the tank in order to ensure further proper operation of the ascent assist device.

### ***Response to Amendment***

8. Applicants' arguments with respect to claims 1, 3-9, 11 and 28 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Du-Bois '159, Bloemer '024, Stollenwerk '295, Ferneau '172, Ferneau '541, Weil et al. '097, Ferneau et al. '334, East '528, Bourgraf et al. '232, Ferneau '262 and Weil et al. '770.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (571) 272-7048. The examiner can normally be reached on Monday through Friday, 11:00 a.m. to 7:30 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia L. Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert G. Santos/  
Primary Examiner, Art Unit 3673